

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

LINUS EKENE,

Plaintiff,

v.

R. COOK, *et al.*,

Defendants.

Case No. 2:22-cv-01443-TLN-JDP (PC)

SCREENING ORDER FINDING THAT  
THE FIRST AMENDED COMPLAINT  
STATES COGNIZABLE FIRST  
AMENDMENT AND EIGHTH  
AMENDMENT CLAIMS AGAINST  
DEFENDANTS COOK, LAUGHLIN, AND  
AGREDANO

ECF No. 13

On December 21, 2022, I found service appropriate for defendants Cook, Laughlin, and Agredano based on the allegations in plaintiff's initial complaint. ECF No. 10. Specifically, I found that the complaint stated viable First Amendment retaliation and Eighth Amendment excessive force claims against these three defendants. ECF Nos. 8 & 10. After I directed service, plaintiff filed a first amended complaint, ECF No. 13, which also states viable First and Eighth Amendment claims against these same three defendants. Accordingly, I direct defendants to respond to the amended complaint.

**Screening and Pleading Requirements**

A federal court must screen a prisoner's complaint that seeks relief against a governmental entity, officer, or employee. *See* 28 U.S.C. § 1915A(a). The court must identify any cognizable

1 claims and dismiss any portion of the complaint that is frivolous or malicious, fails to state a  
2 claim upon which relief may be granted, or seeks monetary relief from a defendant who is  
3 immune from such relief. *See* 28 U.S.C. §§ 1915A(b)(1), (2).

4 A complaint must contain a short and plain statement that plaintiff is entitled to relief,  
5 Fed. R. Civ. P. 8(a)(2), and provide “enough facts to state a claim to relief that is plausible on its  
6 face,” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). The plausibility standard does not  
7 require detailed allegations, but legal conclusions do not suffice. *See Ashcroft v. Iqbal*, 556 U.S.  
8 662, 678 (2009). If the allegations “do not permit the court to infer more than the mere  
9 possibility of misconduct,” the complaint states no claim. *Id.* at 679. The complaint need not  
10 identify “a precise legal theory.” *Kobold v. Good Samaritan Reg’l Med. Ctr.*, 832 F.3d 1024,  
11 1038 (9th Cir. 2016). Instead, what plaintiff must state is a “claim”—a set of “allegations that  
12 give rise to an enforceable right to relief.” *Nagrampa v. MailCoups, Inc.*, 469 F.3d 1257, 1264  
13 n.2 (9th Cir. 2006) (en banc) (citations omitted).

14 The court must construe a pro se litigant’s complaint liberally. *See Haines v. Kerner*, 404  
15 U.S. 519, 520 (1972) (per curiam). The court may dismiss a pro se litigant’s complaint “if it  
16 appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which  
17 would entitle him to relief.” *Hayes v. Idaho Corr. Ctr.*, 849 F.3d 1204, 1208 (9th Cir. 2017).  
18 However, ““a liberal interpretation of a civil rights complaint may not supply essential elements  
19 of the claim that were not initially pled.”” *Bruns v. Nat’l Credit Union Admin.*, 122 F.3d 1251,  
20 1257 (9th Cir. 1997) (*quoting Ivey v. Bd. of Regents*, 673 F.2d 266, 268 (9th Cir. 1982)).

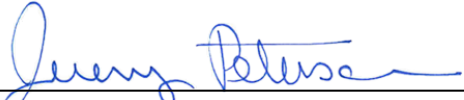
### 21 Analysis

22 As in his initial complaint, plaintiff alleges that defendants retaliated against him for filing  
23 prison grievances by poisoning his food and using excessive force against him. ECF No. 13 at 7,  
24 12. These allegations are substantively the same as the ones I found cognizable in the previous  
25 complaint and, thus, I direct defendants to respond to the first amended complaint within the time  
26 provided for by the federal rules of civil procedure.

27 It is so ORDERED.  
28

1  
2 IT IS SO ORDERED.

3  
4 Dated: March 3, 2023

  
JEREMY D. PETERSON  
UNITED STATES MAGISTRATE JUDGE